



Billing Code: 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR-2014-0258; FRL-9926-72-Region 9]**

**Approval and Promulgation of State Implementation Plans;  
Arizona; Infrastructure Requirements for the 2008 Lead (Pb) and  
the 2008 8-Hour Ozone National Ambient Air Quality Standards  
(NAAQS)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Arizona to address the requirements of section 110(a)(1) and (2) of the Clean Air Act (CAA) for the 2008 Lead (Pb) and 2008 ozone national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each State adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA. We refer to such SIP revisions as "infrastructure" SIPs because they are intended to address basic structural SIP requirements for new or revised NAAQS including, but not limited to, legal authority, regulatory structure, resources, permit programs, monitoring, and modeling necessary

to assure attainment and maintenance of the standards. In addition, we are approving several state provisions addressing CAA conflict of interest and monitoring requirements into the Arizona SIP.

**DATES:** This final rule is effective on [**Insert date 30 days from date of publication**].

**ADDRESSES:** EPA has established a docket for this action, identified by Docket ID Number EPA-R09-OAR-2014-0258. The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne, San Francisco, California. While all documents in the docket are listed in the index, some information may be publically available only at the hard copy location (e.g., copyrighted material) and some may not be publically available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Buss, Office of Air Planning, U.S. Environmental Protection Agency, Region 9, (415) 947-4152, e-mail: [buss.jeffrey@epa.gov](mailto:buss.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms "we," "us," and "our" refer to EPA.

## **TABLE OF CONTENTS**

- I. Background
- II. EPA's Response to Comments
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

## **I. Background**

CAA section 110(a)(1) requires each state to submit to EPA, within three years after the promulgation of a primary or secondary NAAQS or any revision thereof, an infrastructure SIP revision that provides for the implementation, maintenance, and enforcement of such NAAQS. Section 110(a)(2) sets the content requirements of such a plan, which generally relate to the information and authorities, compliance assurances, procedural requirements, and control measures that constitute the "infrastructure" of a state's air quality management program. These infrastructure SIP elements required by section 110(a)(2) are as follows:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.

- Section 110(a)(2)(C): Program for enforcement of control measures and regulation of new and modified stationary sources.
- Section 110(a)(2)(D)(i): Interstate pollution transport.
- Section 110(a)(2)(D)(ii): Interstate and international pollution abatement.
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local and regional government agencies.
- Section 110(a)(2)(F): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J): Consultation with government officials, public notification, PSD, and visibility protection.
- Section 110(a)(2)(K): Air quality modeling and submittal of modeling data.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

Two elements identified in section 110(a)(2) are not governed by the three-year submittal deadline of section

110(a)(1) and are therefore not addressed in this action. These two elements are: (i) section 110(a)(2)(C) to the extent it refers to permit programs required under part D (nonattainment NSR), and (ii) section 110(a)(2)(I), pertaining to the nonattainment planning requirements of part D. As a result, this action does not address infrastructure for the nonattainment NSR portion of section 110(a)(2)(C) or the whole of section 110(a)(2)(I).

On November 12, 2008, the U.S. Environmental Protection Agency (EPA) issued a revised NAAQS for Pb.<sup>1</sup> That action triggered a requirement for states to submit an infrastructure SIP to address the applicable requirements of section 110(a)(2) within three years of issuance of the revised NAAQS. On October 14, 2011, EPA issued "Guidance on Section 110 Infrastructure SIPs for the 2008 Pb NAAQS", referred to herein as EPA's 2011 Pb Guidance.<sup>2</sup> Depending on the timing of a given submittal, some states relied on the earlier draft version of this guidance, referred to herein as EPA's 2011 Draft Pb Guidance.<sup>3</sup> EPA issued

---

<sup>1</sup> 73 FR 66964 (November 12, 2008). The 1978 Pb standard (1.5  $\mu\text{g}/\text{m}^3$  as a quarterly average) was modified to a rolling 3 month average not to be exceeded of 0.15  $\mu\text{g}/\text{m}^3$ . EPA also revised the secondary NAAQS to 0.15  $\mu\text{g}/\text{m}^3$  and made it identical to the revised primary standard. *Id.*

<sup>2</sup> See Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors, Regions 1-10 (October 14, 2011).

<sup>3</sup> "DRAFT Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)," June 17, 2011 version.

additional guidance on infrastructure SIPs on September 13, 2013.<sup>4</sup>

On March 27, 2008, EPA issued a revised NAAQS for 8-hour Ozone.<sup>5</sup> That action triggered a requirement for states to submit an infrastructure SIP to address the applicable requirements of section 110(a)(2) within three years of issuance of the revised NAAQS. EPA did not, however, prepare guidance at that time for states in submitting I-SIP revisions for the 2008 Ozone NAAQS.<sup>6</sup> On September 13, 2013, EPA issued "Guidance of Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)," which provides advice on the development of infrastructure SIPs for the 2008 ozone NAAQS (among other pollutants) as well as infrastructure SIPs for new or revised NAAQS promulgated in the future.<sup>7</sup>

The Arizona Department of Environmental Quality (ADEQ) has submitted several infrastructure SIP revisions pursuant to EPA's promulgation of the NAAQS addressed by this rule, including the following:

---

<sup>4</sup> See Memorandum dated September 13, 2013 from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, to Regional Air Directors, EPA Regions 1-10, "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)" (referred to herein as "2013 Infrastructure SIP Guidance").

<sup>5</sup> 73 FR 16436 (March 27, 2008).

<sup>6</sup> Preparation of guidance for the 2008 Ozone NAAQS was postponed given EPA's reconsideration of the standard. See 78 FR 34183 (June 6, 2013).

<sup>7</sup> See Memorandum dated September 13, 2013 from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, to Regional Air Directors, EPA Regions 1-10, "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)" (referred to herein as "2013 Infrastructure SIP Guidance").

- October 14, 2011 - "Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); 2008 Lead NAAQS," to address all of the CAA section 110(a)(2) requirements, except for section 110(a)(2)(G),<sup>8</sup> for the 2008 Pb NAAQS (2011 Pb I-SIP Submittal).
- December 27, 2012 - "Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); 2008 8-hour Ozone NAAQS," to address all of the CAA section 110(a)(2) requirements for the 2008 8-hour Ozone NAAQS (2012 Ozone I-SIP Submittal).
- December 6, 2013 - "Submittal of Maricopa County Rule 100 revising the Maricopa County Portion of the Arizona State Implementation Plan for Section 110(a)(2) Infrastructure" from Eric Massey, Director of ADEQ (2013 Maricopa County Submittal). Maricopa County Rule 100 was submitted to address a deficiency in section 110(a)(2)(E)(ii) of the SIP for Maricopa County concerning conflict of interest requirements for hearing boards.

---

<sup>8</sup> In a separate rulemaking, EPA fully approved Arizona's SIP to address the requirements regarding air pollution emergency episodes in CAA section 110(a)(2)(G) for the 1997 8-hour ozone NAAQS. 77 FR 62452 (October 15, 2012). Although ADEQ did not submit an analysis of Section 110(a)(2)(G) requirements, we discuss them in our TSD, which is in the docket for this rulemaking.

- December 19, 2013 - "Submittal of Pima County Rules revising the Pima County Portion of the Arizona State Implementation Plan for Section 110(a)(2) Infrastructure" from Eric Massey, Director of ADEQ (2013 Pima County Submittal). This submittal included Pima County Rule 17.04.190 "Composition," adopted September 28, 1993; Pima County Rule 17.12.040 "Reporting for Compliance Evaluations," adopted September 28, 1993; and Pima County Rule 17.24.040 "Reporting Requirements," adopted April 19, 2005 for inclusion into the Arizona SIP. These rules were submitted to address deficiencies in section 110(a)(2)(E)(ii) of the SIP concerning conflict of interest requirements for hearing boards and section 110(a)(2)(F) of the SIP concerning stationary source monitoring and reporting.
- September 4, 2014 - "Submittal of Pinal County Rule 1-3-140 Revising the Pinal County Portion of the Arizona State Implementation Plan for Section 110(a)(2) Infrastructure" from Eric Massey, Director of ADEQ (2014 Pinal County Submittal). This submittal included Pinal County Rule 1-3-140 "Definitions," adopted July 23, 2014 for inclusion into the Arizona SIP. Pinal



County Rule 1-3-140 was submitted to address a deficiency in section 110(a)(2)(E)(ii) of the SIP for Pinal County concerning conflict of interest requirements for hearing boards.

## **II. EPA's Response to Comments**

The public comment period on EPA's proposed rule opened on November 24, 2014, the date of its publication in the **Federal Register** at 79 FR 69796, and closed on December 24, 2014. During that period, EPA did not receive any comments.

## **III. Final Action**

Under CAA section 110(k)(3) and based on the evaluation and rationale presented in the proposed rule, the technical support document and this final rule, EPA is approving the 2011 Pb I-SIP Submittal, the 2012 Ozone I-SIP Submittal, the 2013 Maricopa County Submittal, the 2013 Pima County Submittal and the 2014 Pinal County Submittal with respect to the following infrastructure SIP requirements:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local and regional government agencies.

- Section 110(a)(2)(F): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

In addition, we are approving into the SIP certain regulatory provisions included in the 2013 Pima County and Maricopa County Submittals, and in the 2014 Pinal County Submittal, as discussed in the TSD.<sup>9</sup>

We are not acting today on those elements of the infrastructure SIP that address the requirements of sections 110(a)(2)(C), (D), (J) and (K) of the Act. On October 29, 2012, ADEQ submitted "New Source Review State Implementation Plan Submission" and on July 2, 2014 submitted "Supplemental Information to 2012 New Source Review State Implementation Plan Submission". These submissions address the permitting portions of I-SIP elements in sections 110(a)(2)(C), (D), (J) and (K) of the Act and will be addressed in a subsequent rulemaking.

---

<sup>9</sup> Copies of these Arizona county regulations are included in the 2013 Pima County and Maricopa County Submittals, and 2014 Pinal County Submittal, which are available in the docket for this action and online at <http://regulations.gov>, docket number EPA-R09-OAR-2014-0258.

Section 110(1) of the Act prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the Act. All of the elements of the infrastructure SIP that we are approving, as explained in the TSD, improve the SIP by replacing obsolete statutes or regulations and by updating the state and local agencies' SIP implementation and enforcement authorities. We have determined that our approval of the elements discussed above complies with CAA section 110(1) because the SIP revision would not interfere with the on-going process for ensuring that requirements for RFP and attainment of the NAAQS are met, and the SIP revision clarifies and updates the SIP. Our TSD contains a more detailed discussion of our evaluation.

#### **IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Arizona Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

## **V. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations, Ozone,  
Lead, Reporting and recordkeeping requirements.

Dated: February 19, 2015. Alexis Strauss,  
Acting Regional  
Administrator, Region IX.

Editorial Note: This document was received for publication by  
the Office of the Federal Register on August 4, 2015.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

**Subpart D - Arizona**

2. Section 52.120 is amended by adding paragraphs (c)(166), (167), (168), (169), and (170) to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(166) The following plan was submitted on October 14, 2011, by the Governor's designee.

(i) [Reserved]

(ii) Additional materials.

(A) Arizona Department of Environmental Quality.

(1) Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); Implementation of the 2008 Lead National Ambient Air Quality Standards, excluding the appendices.

(167) The following plan was submitted on December 27, 2012 by the Governor's designee.

(i) [Reserved]

(ii) Additional materials.

(A) Arizona Department of Environmental Quality.

(1) Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); 2008 8-hour Ozone NAAQS, excluding the appendices.

(168) The following plan was submitted on December 6, 2013 by the Governor's designee.

(i) *Incorporation by reference.*

(A) Maricopa County Air Quality Department.

(1) Maricopa County Air Pollution Control Regulations, Rule 100 ("General Provisions and Definitions"), section 100 ("General"), subsection 108 ("Hearing Board"), revised September 25, 2013.

(169) The following plan was submitted on December 19, 2013 by the Governor's designee.

(i) [Reserved]

(ii) Additional materials.

(A) Pima County Department of Environmental Quality.

(1) Board of Supervisors of Pima County, Arizona, Ordinance No. 1993-128, Section 1, 17.040.190 "Composition" Section 6, 17.24.040 "Reporting for compliance evaluations" adopted September 28, 1993.

(2) Board of Supervisors of Pima County, Arizona, Ordinance 2005-43, Chapter 17.12, Permits and Permit Revisions, section 2, 17.12.040 "Reporting Requirements" adopted April 19, 2005.



(170) The following plan was submitted on September 4, 2014 by the Governor's designee.

(i) *Incorporation by reference.*

(A) Pinal County Air Quality Control District.

(1) Pinal County Board of Supervisors, Resolution No. 072314-AQ1, 1-3-140, Definitions, 74, Hearing Board, including new text that is underlined and excluding removed text which was struck by the board, effective July 23, 2014.

3. Section 52.123 is amended by revising paragraphs (l), (m), and (n) to read as follows:

**§ 52.123 Approval status.**

\* \* \* \* \*

(l) *1997 8-hour ozone NAAQS:* The SIPs submitted on October 14, 2009 and August 24, 2012 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(ii), (J) and (K) for all portions of the Arizona SIP.

(m) *1997 PM 2.5 NAAQS:* The SIPs submitted on October 14, 2009 and August 24, 2012 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(ii), (J) and (K) for all portions of the Arizona SIP.

(n) *2006 PM 2.5 NAAQS:* The SIPs submitted on October 14, 2009 and August 24, 2012 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(i)(II) (interfere with measures in any other state to prevent significant deterioration

of air quality), (D) (ii), (J) and (K) for all portions of the Arizona SIP.

[FR Doc. 2015-19499 Filed: 8/7/2015 08:45 am; Publication Date: 8/10/2015]